

AMENDED IN ASSEMBLY APRIL 13, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1335

Introduced by Assembly Member Vargas

February 22, 2005

~~An act to add Chapter 5 (commencing with Section 43950) to Division 4 of Title 4 of the Government Code, relating to cities. An act to amend Sections 22500, 22502, 22525, 22528, 22535, 22566, 22567, 22569, 22585, 22587, and 22591 of, and to add Sections 22531.1 and 22541 to, the Streets and Highways Code, relating to public works.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1335, as amended, Vargas. ~~Cities: community benefit districts.~~
Public works: Community Benefit Act of 2005.

Existing law, the Landscaping and Lighting Act of 1972, authorizes certain local agencies and entities to form an assessment district and levy benefit assessments on real property within the district for the purpose of financing the acquisition, installation, construction, and maintenance of specified public improvements.

This bill would rename the act as the "Landscaping and Lighting Act of 1972/Community Benefit Act of 2005." The bill would revise certain definitions in the act, including the term "improvement," and thereby expand the purposes for which benefit assessments may be used. The bill would also authorize benefit assessments to be used for financing specified activities. The bill would require a report that is prepared for each fiscal year for a benefit assessment district to include designation of a community-based nonprofit corporation to serve as the management entity for the upcoming fiscal year.

~~Existing law authorize cities and counties to establish various districts and other entities to provide improvements and other benefits within their jurisdiction.~~

~~This bill would establish a procedure for a city to form and operate community benefit districts and to levy assessments for the support of those districts.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Chapter 5 (commencing with Section 43950) is~~
2 ~~added to Division 4 of Title 4 of the Government Code, to read:~~

3 ~~SECTION 1. Section 22500 of the Streets and Highways Code~~
4 ~~is amended to read:~~

5 22500. This part shall be known and may be cited as the
6 “Landscaping and Lighting Act of 1972.” *Community Benefit Act*
7 ~~of 2005.”~~

8 ~~SEC. 2. Section 22502 of the Streets and Highways Code is~~
9 ~~amended to read:~~

10 22502. This part provides an alternative procedure for making
11 the improvements *and activities* herein authorized and shall not
12 apply to or affect any other provisions of this code.

13 ~~SEC. 3. Section 22525 of the Streets and Highways Code is~~
14 ~~amended to read:~~

15 22525. “Improvement” means one or any combination of the
16 following:

17 (a) The installation or planting of landscaping.

18 (b) The installation or construction of statuary, fountains, and
19 other ornamental structures and facilities.

20 (c) The installation or construction of public lighting facilities,
21 including, but not limited to, traffic signals.

22 (d) The installation or construction of any facilities which are
23 appurtenant to any of the foregoing or which are necessary or
24 convenient for the maintenance or servicing thereof, including,
25 but not limited to, grading, clearing, removal of debris, the
26 installation or construction of curbs, gutters, walls, sidewalks, or
27 paving, or water, irrigation, drainage, or electrical facilities.

28 (e) The installation of park or recreational improvements,
29 including, but not limited to, all of the following:

1 (1) Land preparation, such as grading, leveling, cutting and
2 filling, sod, landscaping, irrigation systems, sidewalks, and
3 drainage.

4 (2) Lights, playground equipment, play courts, and public
5 restrooms.

6 (3) *Urban public space acquisition, construction, and*
7 *maintenance.*

8 (f) The maintenance or servicing, or both, of any of the
9 foregoing.

10 (g) The acquisition of land for park, *urban public spaces*,
11 recreational, or open-space purposes.

12 (h) The acquisition of any existing improvement otherwise
13 authorized pursuant to this section.

14 (i) The acquisition or construction of any community center,
15 municipal auditorium or hall, or similar public facility for the
16 indoor presentation of performances, shows, stage productions,
17 fairs, conventions, exhibitions, pageants, meetings, parties, or
18 other group events, activities, or functions, whether those events,
19 activities, or functions are public or private.

20 (j) *The design and construction of community parking*
21 *structures or lots.*

22 (k) *The design, construction, and placement of community*
23 *signage to facility district identity, and pedestrian orientation,*
24 *including kiosks, banners, and related items.*

25 SEC. 4. Section 22528 of the Streets and Highways Code is
26 amended to read:

27 22528. "Landscaping" means trees, shrubs, grass, or other
28 ornamental vegetation, *whether placed in the ground, elevated in*
29 *the public rights of way, or placed inside public buildings.*

30 SEC. 5. Section 22531.1 is added to the Streets and Highways
31 Code, to read:

32 22531.1. "Activities" means, but is not limited to, all of the
33 following:

34 (a) *District identity and promotion of the community.*

35 (b) *Activities that promote the life and dynamic growth of the*
36 *area, including farmers markets, street festivals, or special*
37 *events.*

38 (c) *Promotion of residential and visitor related public*
39 *activities.*

40 (d) *Recruitment of new business tenants to the neighborhood.*

1 (e) *Economic development activities.*

2 (f) *Security, sanitation, graffiti removal, street and sidewalk*
3 *cleaning, and other special benefit services supplemental to those*
4 *normally provided by the municipality.*

5 (g) *Operational parking programs.*

6 (h) *Planning, zoning, and land use issues.*

7 (i) *Other activities that benefit residential, retail, and*
8 *commercial property owners within the district.*

9 SEC. 6. *Section 22535 of the Streets and Highways Code is*
10 *amended to read:*

11 22535. “Public places” means one or any combination of the
12 following:

13 (a) Any public street, highway, road, alley, lane, boulevard,
14 parkway, or other way dedicated to or used for public use.

15 (b) Any public property, right-of-way, or leasehold interest
16 which is in use in the performance of a public function and which
17 adjoins any of the ways described in subdivision (a).

18 (c) *Any area within an urban public right of way that serves as*
19 *a community gathering place and rebuilds the concept of a town*
20 *center or plaza.*

21 SEC. 7. *Section 22541 is added to the Streets and Highways*
22 *Code, to read:*

23 22541. “Municipal entity” means the community based
24 nonprofit corporation comprised of those who pay into the
25 district. A municipality shall be encouraged to allow a district to
26 be self administered by the management entity, and the
27 management entity shall contract with the municipality to deliver
28 the special benefit services and maximize the operations for the
29 district.

30 SEC. 8. *Section 22566 of the Streets and Highways Code is*
31 *amended to read:*

32 22566. A report shall be prepared for each fiscal year for
33 which assessments are to be levied and collected to pay the costs
34 of the improvements described in the report. *The report shall*
35 *also designate a community-based nonprofit corporation to serve*
36 *as the management entity for the upcoming fiscal year.*

37 SEC. 9. *Section 22567 of the Streets and Highways Code is*
38 *amended to read:*

39 22567. A report shall refer to the assessment district by its
40 distinctive designation, specify the fiscal year to which the report

1 applies, and, with respect to that year, shall contain all of the
2 following:

- 3 (a) Plans and specifications for the improvements.
- 4 (b) An estimate of the costs of the improvements.
- 5 (c) A diagram for the assessment district.
- 6 (d) An assessment of the estimated costs of the improvements.
- 7 (e) If bonds or notes will be issued pursuant to Section
8 22662.5, an estimate of their principal amount.
- 9 (f) *The name, address, and contact of the community-based*
10 *nonprofit corporation that will serve as the management entity*
11 *for the upcoming year.*

12 *SEC. 10. Section 22569 of the Streets and Highways Code is*
13 *amended to read:*

14 22569. The estimate of the costs of the improvements for the
15 fiscal year shall contain estimates for all of the following:

- 16 (a) The total costs for improvements to be made that year,
17 being the total costs of constructing or installing all proposed
18 improvements and of maintaining and servicing all existing and
19 proposed improvements, including all incidental expenses. This
20 may include a reserve which shall not exceed the estimated costs
21 of maintenance and servicing to December 10 of the fiscal year,
22 or whenever the city expects to receive its apportionment of
23 special assessments and tax collections from the county,
24 whichever is later.
- 25 (b) The amount of any surplus or deficit in the improvement
26 fund to be carried over from a previous fiscal year.
- 27 (c) The amount of any contributions to be made from sources
28 other than assessments levied pursuant to this part.
- 29 (d) The amount, if any, of the annual installment for the fiscal
30 year where the legislative body has ordered an assessment for the
31 estimated cost of any improvements to be levied and collected in
32 annual installments.
- 33 (e) The net amount to be assessed upon assessable lands
34 within the assessment district, being the total improvement costs,
35 as referred to in subdivision (a), increased or decreased, as the
36 case may be, by any of the amounts referred to in subdivision (b),
37 (c), or (d).
- 38 (f) *The cost of administering and managing the district by the*
39 *community-based nonprofit corporation.*

1 *SEC. 11. Section 22585 of the Streets and Highways Code is*
2 *amended to read:*

3 22585. Proceedings for the formation of an assessment
4 district shall be initiated by resolution. The resolution shall:

5 (a) Propose the formation of an assessment district pursuant to
6 this part.

7 (b) Describe the improvements *and activities*.

8 (c) Describe the proposed assessment district and specify a
9 distinctive designation for the district.

10 (d) Order the engineer to prepare and file a report in
11 accordance with Article 4 (commencing with Section 22565) of
12 Chapter 1.

13 (e) *Identify the community-based nonprofit corporation that*
14 *will manage the district.*

15 The descriptions need not be detailed but shall be sufficient if
16 they enable the engineer to generally identify the nature, location,
17 and extent of the improvements and the location and extent of the
18 assessment district.

19 *SEC. 12. Section 22587 of the Streets and Highways Code is*
20 *amended to read:*

21 22587. After approval of the report, either as filed or as
22 modified, the legislative body shall adopt a resolution of
23 intention. The resolution shall do all of the following:

24 (a) Declare the intention of the legislative body to order the
25 formation of an assessment district, to levy and collect
26 assessments, and, if desired, to issue bonds or notes pursuant to
27 this part.

28 (b) Generally describe the improvements.

29 (c) Refer to the proposed assessment district by its distinctive
30 designation and indicate the general location of the district.

31 (d) Refer to the report of the engineer, on file with the clerk,
32 for a full and detailed description of the improvements *and*
33 *activities*, the boundaries of the assessment district and any zones
34 therein, any bonds or notes to be issued, and the proposed
35 assessments upon assessable lots and parcels of land within the
36 district.

37 (e) Give notice of, and fix a time and place for, a hearing by
38 the legislative body on the question of the formation of the
39 assessment district and the levy of the proposed assessment.

SEC. 13. Section 22591 of the Streets and Highways Code is amended to read:

22591. During the course or upon the conclusion of the hearing, the legislative body may order changes in any of the matters provided in the report, including changes in the improvements *and activities*, the boundaries of the proposed assessment district and any zones therein, and the proposed diagram or the proposed assessment. The legislative body may, without further notice, order the exclusion of territory from the proposed district, but shall not order the inclusion of additional territory within the district except upon written request by a property owner for the inclusion of his property or upon the giving of mailed notice of hearing to property owners upon the question of the inclusion of their property in the district.

~~CHAPTER 5. COMMUNITY BENEFIT DISTRICTS~~

~~43950. As used in this chapter the following terms shall have the following meanings:~~

~~(a) "Activities" that benefit real property located in the neighborhood council district, means, but is not limited to, all of the following:~~

~~(1) Promotion of public events that benefit residential or mixed-use buildings or real property in the district.~~

~~(2) Furnishing of music in any public place within the district.~~

~~(3) Promotion of district or neighborhood identity within the area.~~

~~(4) Marketing, planning, zoning, and economic development, including business retention and recruitment.~~

~~(5) Providing security, sanitation, graffiti removal, street and sidewalk cleaning and other municipal services supplemental to those normally provided by the municipality.~~

~~(b) "Improvement" means the acquisition, construction, installation, or maintenance of any tangible property with an estimated useful life of five years or more including, but not limited to, parking facilities, benches, booths, kiosks, display cases, pedestrian shelters and signs, trash receptacles and public restrooms, lighting and heating facilities, decorations, fountains, planting areas, minor modification of existing streets, facilities or equipment or both, to enhance security of persons and property within the area, ramps, sidewalks, plazas, town centers or~~

1 pedestrian malls, rehabilitation or removal of existing public
2 structures, installation or planting of landscaping, the installation
3 or construction of statuary, fountains and other ornamental
4 structures and facilities, and the installation or construction of
5 any facilities that are appurtenant to any of the foregoing or that
6 are necessary or convenient for the maintenance or servicing
7 thereof, including, but not limited to, grading, clearing, removal
8 of debris, the installation or construction of curbs, gutters, walls,
9 sidewalks or paving, or water, irrigation, drainage or electrical
10 facilities.

11 (e) “Maintain” or “maintenance” means the furnishing of
12 services and materials for the ordinary and usual maintenance,
13 operation, and servicing of any improvement, including the
14 following:

15 (1) Repair, removal, or replacement of any part of the
16 improvement.

17 (2) Providing for the life, growth, health, and beauty of
18 landscaping including cultivation, irrigation, trimming, spraying,
19 fertilization, or treating for disease or injury.

20 (3) The removal of trimmings, rubbish, debris, and other solid
21 waste.

22 (4) The cleaning, sandblasting, and painting of walls and other
23 improvements to remove or cover graffiti.

24 43951. Whenever the public interest or convenience may
25 require, a city council, acting under the authority conferred upon
26 it by this chapter, may order the improvement, maintenance, and
27 activities of specifically defined neighborhood and mixed-use
28 commercial districts of the city within designated neighborhood
29 council areas. The city shall determine and declare the property
30 owners to be benefited by the improvement, maintenance, and
31 activities, and assess the cost and expenses of the improvements,
32 maintenance, and activities, including all expense incurred
33 incidentally, upon the lots or parcels of real property in
34 proportion to the estimated benefits to be received. The
35 procedures established shall be additional or alternative to any
36 other procedure established by ordinance or state law and shall
37 apply to any proposed district that complies with this chapter
38 whether or not any of the procedures for formation required in
39 this chapter is taken prior to the effective date that the ordinance
40 is adopted. The election to proceed under this chapter shall be

1 ~~expressed in the ordinance of intention to form the district that~~
2 ~~shall be referred to as a community benefit district.~~

3 ~~43952. Upon the written petition, signed by the property~~
4 ~~owners in the proposed district who will pay more than 30~~
5 ~~percent of the assessments proposed to be levied, the city council~~
6 ~~may initiate proceedings to form a district by the adopting of an~~
7 ~~ordinance expressing its intention to form a district. The amount~~
8 ~~of assessment attributable to property owned by the same~~
9 ~~property owner which is in excess of 20 percent of the amount of~~
10 ~~all assessments proposed to be levied, shall not be included in~~
11 ~~determining whether the petition is signed by property owners~~
12 ~~who will pay more than 30 percent of the total amount of~~
13 ~~assessments proposed to be levied. The petition property owners~~
14 ~~shall include the community benefit district plan.~~

15 ~~43953. The community benefit district plan shall be~~
16 ~~submitted before the city council takes any action on the~~
17 ~~establishment of a district under this chapter shall contain all of~~
18 ~~the following:~~

19 ~~(a) A map of the district in sufficient detail to locate each~~
20 ~~parcel of property within the district.~~

21 ~~(b) The neighborhood or business community name of the~~
22 ~~proposed district.~~

23 ~~(c) A description of the boundaries of the district, including~~
24 ~~the boundaries of any benefit zones, proposed for the~~
25 ~~establishment or extension of the district in a manner sufficient to~~
26 ~~identify the lands included. Under no circumstances shall the~~
27 ~~boundaries of a proposed district overlap with the boundaries of~~
28 ~~another existing district created pursuant to this chapter. Nothing~~
29 ~~in this chapter prohibits the boundaries of a district created~~
30 ~~pursuant to this chapter from overlapping with other assessment~~
31 ~~districts.~~

32 ~~(d) The improvements and activities proposed for each year of~~
33 ~~operation of the district and the maximum cost thereof.~~

34 ~~(e) The total annual amount proposed to be expended for~~
35 ~~improvements, maintenance, and operations.~~

36 ~~(f) The proposed source or sources of financing including the~~
37 ~~proposed method and basis of levying the assessment in~~
38 ~~sufficient detail to allow each property owner to calculate the~~
39 ~~amount of the assessment to be levied against his or her property,~~
40 ~~including a statement setting forth the requirement to provide~~

1 completion bonds for any improvements which are proposed to
2 be constructed.

3 (g) ~~The time and manner of collecting the assessments.~~

4 (h) ~~Any proposed rules and regulations to be applicable to the~~
5 ~~district.~~

6 (i) ~~A statement, placed in a conspicuous place of the~~
7 ~~community benefit district plan, stating that assessments for the~~
8 ~~maintenance of improvements constructed by the district, if any,~~
9 ~~shall continue to be levied on each parcel of land within the~~
10 ~~district for a period of time equal to the useful life of the~~
11 ~~improvement, as determined by the city clerk, regardless of~~
12 ~~whether the district is dissolved or the term of the original levy~~
13 ~~has expired.~~

14 43954. (a) ~~The city council shall identify all parcels that will~~
15 ~~have a special benefit conferred upon them and upon which an~~
16 ~~assessment will be imposed. The proportionate special benefit~~
17 ~~derived by each identified parcel shall be determined in~~
18 ~~relationship to the entirety of the capital cost of a public~~
19 ~~improvement or the maintenance and operation expenses of a~~
20 ~~public improvement or for the cost of the property service being~~
21 ~~provided. No assessment shall be imposed on any parcel that~~
22 ~~exceeds the reasonable cost of the proportional special benefit~~
23 ~~conferred on that parcel. Only special benefits are assessable, and~~
24 ~~the city council shall separate the general benefits from the~~
25 ~~special benefits conferred on a parcel. Parcels within a district~~
26 ~~that are owned or used by any governmental agency, the state, or~~
27 ~~the United States shall not be exempt from assessments unless~~
28 ~~the city council demonstrates by clear and convincing evidence~~
29 ~~that the publicly owned parcels in fact receive no special benefit.~~

30 (b) ~~All assessments shall be supported by a detailed engineer's~~
31 ~~report prepared by a registered professional engineer certified by~~
32 ~~this state.~~

33 (c) ~~The amount of the proposed assessment for each identified~~
34 ~~parcel shall be calculated and the record owner of each parcel~~
35 ~~shall be given written notice by mail of the proposed assessment,~~
36 ~~the total amount thereof chargeable to the entire district, the~~
37 ~~amount chargeable to the owner's particular parcel, the duration~~
38 ~~of the payments, the reason for the assessment and the basis upon~~
39 ~~which the proposed assessment was calculated together with the~~

1 ~~date, time, and location of a public hearing or, the proposed~~
2 ~~assessment.~~

3 ~~(d) Each notice shall also include, in a conspicuous place~~
4 ~~thereon, a summary of the procedures applicable to the~~
5 ~~completion, return, and tabulation of the ballots required~~
6 ~~including a disclosure statement that the existence of a majority~~
7 ~~protest will result in the assessment not being imposed.~~

8 ~~(e) Each notice mailed to owners of identified parcels within~~
9 ~~the district shall contain a ballot that includes the agency's~~
10 ~~address for receipt of a ballot once completed by any owner~~
11 ~~receiving notice whereby each owner may indicate his or her~~
12 ~~name, reasonable identification of the parcel, and support or~~
13 ~~opposition to the proposed assessment.~~

14 ~~(f) The city council shall conduct a public hearing upon the~~
15 ~~proposed assessment not less than 45 days after mailing the~~
16 ~~notice of the proposed assessment to record owners of each~~
17 ~~identified parcel. At the public hearing, the agency shall consider~~
18 ~~all protests against the proposed assessment and tabulate the~~
19 ~~ballots. The city council shall not impose an assessment if there~~
20 ~~is a majority protest. A majority protests exists if, upon the~~
21 ~~conclusion of the hearing, ballots submitted in opposition to the~~
22 ~~assessment exceed the ballots submitted in favor of the~~
23 ~~assessment. In tabulating the ballots, the ballots shall be weighted~~
24 ~~according to the proportional financial obligation of the affected~~
25 ~~property.~~

26 ~~43955. (a) Before the city council may establish a district~~
27 ~~pursuant to the chapter, the city council shall pass an ordinance~~
28 ~~declaring its intention to do so. The ordinance, in addition to all~~
29 ~~other matters it is herein required to contain, shall briefly~~
30 ~~describe the proposed improvements, state the period of time,~~
31 ~~which shall not exceed 20 years, for which the proposed~~
32 ~~improvements are to be made, and contain a description of the~~
33 ~~district to be benefited thereby and to be assessed to pay the costs~~
34 ~~and expenses thereof.~~

35 ~~(b) The ordinance of intention shall further do all of the~~
36 ~~following:~~

37 ~~(1) State that a district is proposed to be established pursuant~~
38 ~~to this chapter and describe the boundaries of the proposed~~
39 ~~district and the boundaries of each separate benefit zone to be~~
40 ~~established within the district. The boundaries may be described~~

1 ~~by reference to the map and description contained in the~~
2 ~~preliminary report of the city clerk on file in the office of the city~~
3 ~~clerk.~~

4 ~~(2) State the name of the proposed district.~~

5 ~~(3) State the type or types of improvements and activities~~
6 ~~proposed to be funded by the levy of assessments on property~~
7 ~~owners within the district, including any improvements to be~~
8 ~~acquired.~~

9 ~~(4) State the amount of the proposed assessment for the entire~~
10 ~~district, the duration of the payments, the reason for the~~
11 ~~assessment and the basis upon which the proposed assessment~~
12 ~~was calculated.~~

13 ~~(5) State the date, time, and location of a public hearing on the~~
14 ~~proposed assessment.~~

15 ~~(6) Include a ballot as described in Section 43954.~~

16 ~~(7) State, in a conspicuous place, a summary of the procedures~~
17 ~~applicable to the completion, return, and tabulation of the ballots,~~
18 ~~including a disclosure statement that the existence of a majority~~
19 ~~protest will result in the assessment not being imposed.~~

20 ~~(8) State that at the public hearing the testimony of all~~
21 ~~interested persons for or against the establishment of the district,~~
22 ~~the boundaries of the district, or the furnishing of specified types~~
23 ~~of improvements or activities will be heard.~~

24 ~~(9) Refer to the preliminary report of the city clerk on file in~~
25 ~~the office of the city clerk.~~

26 ~~(10) State the manner of collection of the assessment.~~

27 ~~43956. Before the city council may take any action on the~~
28 ~~ordinance of intention, the city clerk shall prepare and file a~~
29 ~~report in writing, proposing that the proceeding be commenced~~
30 ~~as requested in the petition, designating the plans and~~
31 ~~specifications of the proposed maintenance, improvements, and~~
32 ~~activities for the proposed district and an estimate of the cost and~~
33 ~~expenses of the work for each year during which the proposed~~
34 ~~work will be done.~~

35 ~~The report shall include a certified engineer's report stating the~~
36 ~~district establishment is consistent with the provisions of Article~~
37 ~~XIII of the California Constitution in that each lot or parcel~~
38 ~~within the district to be assessed is being assessed in proportion~~
39 ~~to the estimated benefit to be received, and containing a diagram~~
40 ~~showing the boundaries of the proposed assessment district and~~

1 each lot or parcel of land within the district proposed to be
2 assessed.

3 43957. Upon a demonstrated show or support, through
4 petition, of a least 30 percent of the weighted property owners
5 who will pay into the proposed community benefit assessment
6 district, the city clerk will bring the issue of the proposed district
7 to the committee as may be designated by the city council. Upon
8 review of the city clerk's office and approval of the designated
9 committee the proposed district with the ordinance of intention
10 shall be sent to the city council for consideration.

11 Upon the recommendations of the designated committee and
12 the filing of the report, the city clerk shall present the report to
13 the city council for its consideration and the city council may
14 approve, correct, or modify the report in any respect, or may
15 direct the city clerk to make changes therein. When the report has
16 been approved, or approved as modified and corrected, the city
17 council may pass an ordinance declaring its intention to establish
18 the district.

19 43958. (a) A complete copy of the ordinance of intention
20 shall be mailed by first-class mail to each property owner in the
21 proposed district, and to each neighborhood council known by
22 the city council to be located within the proposed district, no later
23 than 45 days before the public hearing.

24 (b) In addition to first-class mailed notice of each property
25 owner within the proposed district, the city council shall publish
26 the ordinance of intention in a newspaper of general circulation
27 in the city once, at least seven days before the public hearing.

28 43959. At any time prior to the date set for hearing protests,
29 any person affected by the proposed assessment may make
30 written protest stating his or her objections. The protests shall
31 contain the information contained in the ballot mailed to the
32 property owner in sufficient detail to allow the city clerk to
33 identify the owner, the parcel, and the amount of the proposed
34 assessment.

35 At the time set for hearing protests, or at any time to which the
36 hearing may be continued, the city council shall proceed to hear
37 and pass on all protests. The city council shall not impose an
38 assessment if there is a majority protest. A majority protest exists
39 if, upon the conclusion of the hearing, ballots submitted in
40 opposition to formation of the proposed assessment exceed the

1 ballots submitted in favor of the assessment. The ballots shall be
2 weighed in proportion to the assessment upon the affected
3 property.

4 43960. Following adoption of the ordinance of intention, the
5 city clerk shall record a notice and map describing the
6 assessment district pursuant to Division 4.5 (commencing with
7 Section 3100) of the Streets and Highways Code. All the
8 provisions of that division apply to the district established
9 pursuant to this chapter.

10 43961. Not earlier than 30 days after the adoption of the
11 ordinance of intention to establish the proposed district, and if
12 there is no majority protest as described in Section 43959, and
13 after the effective date of the ordinance of intention, the city
14 council shall adopt an ordinance consistent with the ordinance of
15 intention.

16 The adoption of the ordinance establishing the district and
17 levying the assessment, and recordation of the notice and map,
18 shall constitute the levy of an assessment in each of the fiscal
19 years referred to in the community benefit district plan. This
20 ordinance shall contain all of the following:

- 21 (a) A summary of the community benefit district plan.
- 22 (b) The number, date of adoption, and title of the ordinance of
23 intention.
- 24 (c) The time and place where the public hearing was held
25 concerning the establishment of the district or the levying of a
26 new assessment.
- 27 (d) A determination regarding any protests received.
- 28 (e) A statement that a district has been established.
- 29 (f) A statement that the improvements and activities to be
30 provided to the district will be funded by the levy of assessments.
31 The revenue from the levy of assessments within a district shall
32 not be used to provide improvements or activities outside the
33 district or for any purpose other than the purposes specified in the
34 ordinance of intention, as approved, or as modified and
35 approved, by the city council at the hearing concerning the
36 establishment of the district.
- 37 (g) A finding that the property within the district will be
38 benefited by the improvements and activities funded by the
39 assessment to be levied.

1 ~~(h) A statement, if applicable, that a completion bond will be~~
2 ~~required for any improvements constructed by the district and~~
3 ~~that a continuing assessment in an amount sufficient to maintain~~
4 ~~the improvement throughout its useful life, as determined by the~~
5 ~~city clerk, will be levied on each parcel within the district~~
6 ~~regardless of whether the district is dissolved or the term of the~~
7 ~~original levy has expired.~~

8 ~~43962. The validity of an assessment levied under the~~
9 ~~provisions of this chapter shall not be contested in any action or~~
10 ~~proceeding unless the action to contest is commenced within 30~~
11 ~~days after the time the assessment is levied, and any appeal from~~
12 ~~a final judgment in the action or proceeding shall be perfected~~
13 ~~within 30 days after entry of the judgment.~~

14 ~~43963. The city shall make accommodations to provide for~~
15 ~~self-administration of the district by the parcel owners paying~~
16 ~~into the district. The city clerk may contract with a nonprofit~~
17 ~~corporation to manage the district on a day-to-day basis.~~

18 ~~43964. The city may advance funds for the first quarter of a~~
19 ~~new district so that the district may commence work prior to the~~
20 ~~initial collection of the assessments. The funds advanced may not~~
21 ~~exceed one-quarter of the assessment for the first year. The funds~~
22 ~~advanced shall then be deducted from the first year's~~
23 ~~disbursement.~~

24 ~~43965. The collection assessments levied pursuant to this~~
25 ~~chapter shall be made at the time and in the manner set forth by~~
26 ~~the city council in the ordinance of intention. The assessment~~
27 ~~may be collected at the same time and in the same manner as for~~
28 ~~the ad valorem property tax, and may provide for the same lien~~
29 ~~priority and penalties for delinquent payment.~~

30 ~~43966. The management corporation shall cause to be made~~
31 ~~on an annual basis, a report that shall explain the results of the~~
32 ~~improvements and activities funded by the district.~~

33 ~~(a) The report shall be filed with the city clerk and shall refer~~
34 ~~to the district by name, specify the fiscal year to which the report~~
35 ~~applies, and, with respect to that fiscal year, shall contain all of~~
36 ~~the following information:~~

37 ~~(1) Any proposed changes in the boundaries of the district or~~
38 ~~in any benefits zones within the district.~~

39 ~~(2) The improvements and activities to be provided for that~~
40 ~~fiscal year.~~

1 ~~(3) An estimate of the cost of providing the improvements and~~
2 ~~the activities for that fiscal year.~~

3 ~~(4) The method and basis of levying the assessment in~~
4 ~~sufficient detail to allow each real property owner to estimate the~~
5 ~~amount of the assessment to be levied against his or her property~~
6 ~~for that fiscal year.~~

7 ~~(5) The amount of any surplus or deficit revenues to be carried~~
8 ~~over from a previous fiscal year.~~

9 ~~(6) The amount of any contributions to be made from sources~~
10 ~~other than assessments levied pursuant to this chapter.~~

11 ~~(b) The city council may approve the report as filed by the~~
12 ~~management corporation or may modify any particular contained~~
13 ~~in the report and approve it as modified. Any modification shall~~
14 ~~be made pursuant to Section 43967. The city council shall not~~
15 ~~approve a change in the basis and method of levying assessments~~
16 ~~that would impair an authorized or executed contract to be paid~~
17 ~~from the revenues derived from the levy of assessments.~~

18 ~~43967. (a) The management corporation may, at any time,~~
19 ~~request that the city council modify the community benefit~~
20 ~~district plan. Any modification of the community benefit district~~
21 ~~plan shall be made pursuant to this section.~~

22 ~~(b) Upon the written request of the advisory board, the city~~
23 ~~council may modify the community benefit district plan by~~
24 ~~adopting an ordinance after holding hearings on the proposed~~
25 ~~modification pursuant to Section 43959.~~

26 ~~(c) The city council shall adopt an ordinance of intention that~~
27 ~~states the proposed modification prior to the public hearing~~
28 ~~required by this section. The public hearing shall be held not~~
29 ~~more than 60 days after the adoption of the ordinance of~~
30 ~~intention. Notice of the public hearing shall be provided in~~
31 ~~Section 43958. The public hearing shall be conducted as~~
32 ~~provided in Section 43959.~~

33 ~~(d) The city council may modify the improvements and~~
34 ~~activities to be funded with the revenue derived from the levy of~~
35 ~~the assessments by adopting an ordinance determining to make~~
36 ~~the modifications after holding a public hearing on the proposed~~
37 ~~modifications. Notice of the public hearing and the proposed~~
38 ~~modifications shall be published as provided in Section 43958.~~

39 ~~(e) The public hearing shall be conducted as provided in~~
40 ~~Section 43959.~~

1 ~~(f) Any subsequent modification of the ordinance shall be~~
2 ~~reflected in subsequent notices and maps recorded pursuant to~~
3 ~~Division 4.5 (commencing with Section 3100) of the Streets and~~
4 ~~Highways Code.~~

5 ~~43968. (a) Any district established or extended pursuant to~~
6 ~~the provisions of this chapter, where there is no indebtedness,~~
7 ~~outstanding and unpaid, incurred to accomplish any of the~~
8 ~~purposes of the district, may be dissolved by ordinance of the~~
9 ~~city council in either of the following circumstances:~~

10 ~~(1) If the city council finds there has been misappropriation of~~
11 ~~funds, malfeasance, or a violation of law in connection with the~~
12 ~~management of the district, it shall notice a hearing on~~
13 ~~disestablishment. The notice and hearing shall be held pursuant~~
14 ~~to Sections 43958 and 43959.~~

15 ~~(2) During the operation of the district, there shall be a 30-day~~
16 ~~period each year in which assesses may request dissolution of the~~
17 ~~district. The first period shall begin one year after the date of~~
18 ~~establishment of the district and shall continue for 30 days. The~~
19 ~~next 30-day period shall begin two years after the date of the~~
20 ~~establishment of the district. Each successive year of operation of~~
21 ~~the district shall have such a 30-day period. Upon the written~~
22 ~~petition of the owners of real property in the area who pay 30~~
23 ~~percent or more of the assessments levied, the city council shall~~
24 ~~enact an ordinance of intention to dissolve the district. The city~~
25 ~~council shall notice a hearing on disestablishment. The notice~~
26 ~~and hearing shall be held pursuant to Sections 43958 and 43959.~~
27 ~~In the event that the district has constructed any improvements,~~
28 ~~an amount of assessment equal to the amount needed to maintain~~
29 ~~the improvements through its useful life, as determined by the~~
30 ~~city clerk, shall continue to be levied upon each parcel in the~~
31 ~~district after dissolution of the district.~~

32 ~~(b) The city council shall adopt an ordinance of intention to~~
33 ~~dissolve the district prior to the public hearing required by this~~
34 ~~section. The ordinance shall state the reason for the~~
35 ~~disestablishment, shall state the time and place of the public~~
36 ~~hearing, and shall contain a proposal to dispose of any assets~~
37 ~~acquired with the revenues of the assessments levied within the~~
38 ~~property and business improvement district. The public hearing~~
39 ~~shall be held not less than 30 or more than 60 days after the~~

1 ~~adoption of the ordinance of intention. Notice of the public~~
2 ~~hearing shall be published as provided in Section 43958.~~

3 ~~(c) Upon the dissolution of a district, any remaining revenues~~
4 ~~derived from the levy of assessments, or any revenues derived~~
5 ~~from the sale of assets acquired with the revenues, shall be~~
6 ~~refunded to the owners of the property then located and operating~~
7 ~~within the district in which assessments were levied by applying~~
8 ~~the same method and basis that was used to calculate the~~
9 ~~assessments levied in the fiscal year in which the district was~~
10 ~~disestablished, other than amounts needed to maintain any~~
11 ~~improvements constructed by the district. If the dissolution~~
12 ~~occurs before an assessment is levied for the fiscal year, the~~
13 ~~method and basis that was used to calculate the assessment levied~~
14 ~~in the immediate prior fiscal year shall be used to calculate the~~
15 ~~amount of refund.~~

16 ~~(d) Notice of the dissolution of a district shall be published~~
17 ~~once in a newspaper of general circulation in the city, not later~~
18 ~~than 15 days after the ordinance disestablishing the district is~~
19 ~~adopted.~~